IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Amendment Application No. 1279 of 2007
In
Writ Petition No. 349 (SS) of 2002
(Old No.12129/1998)

Ram Gopal,
S/o Sri Sugan Chandra Gupta,
R/o village –Thithaki, Kavadpur,
Tehsil - Roorkee,
District- Haridwar.

……Petitioner.

Versus

1. Director of Education (Basic), U.P. Allahabad.
2. District Basic Shiksha Adhikari, Haridwar.
3. Manager, Devta Bhure Shah Trust, Mata Shakumbari Devi Junior High School, Mangalore Town, District- Haridwar.
4. Tanzeem Ahmad, S/o Rais Ahmad.
5. Sansar Singh, S/o Shri Mahavir Singh

   Both Assistant Teacher, Mata Shakumbari Devi Junior High School, Mangalore Town, District- Haridwar.

……..Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri A.K. Sharma, learned counsel for the petitioner, Sri Paresh Tripathi, learned Brief Holder for State of Uttarakhand on behalf of respondent nos. 1 and 2, and Sri Sri Gajendra Tripathi, learned standing counsel for respondent no. 3 to 5.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

By means of this writ petition, the petitioner has prayed for the following reliefs:

a. *Issue a writ, order or direction in the nature of Mandamus directing the opposite party nos. 2 and 3 to pay the accumulated and recurring salary to the petitioner as Assistant Teacher in Mata Shakumbheri Devi Junior High School, Mangalore Town, District – Haridwar.*
b. *Issue a writ, order or direction in the nature of Mandamus directing the opposite party nos. 2 and 3 to take proceedings for regularization and absorption of the petitioner in the vacancies caused with the resignation of the two permanent teachers in the year 1995.*
c. *Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*
d. *Award the costs of the writ petition to the petitioners.*

Amendment application has been moved by the petitioner with a prayer to delete prayer of (b), which is for regularization and in place that prayer following prayer may be added "to issue a writ, order or direction in the nature of Mandamus commanding the respondent to give appointment to the petitioner on the vacancy which caused by the resignation of Sri Manoj and Urmila.

Amendment application is allowed. Prayer of regularization is deleted and in place prayer (b) aforesaid prayed be added.

Respondents have filed counter affidavit. In the counter affidavit it is stated that appointment of the petitioner was never approved by the respondent no. 2 and as such, prayer (a) cannot be granted to the petitioner.

So far newly added prayer (b) is concerned, petitioner has not challenged the advertisement by which respondents no. 4 and 5 have been appointed. It is specifically stated in the counter affidavit that the petitioner has neither applied in pursuance to that advertisement nor he appeared before the Interview Board.

Since petitioner has neither applied in pursuance to the advertisement nor has challenged the advertisement, as such, petitioner is not entitled to get relief in respect of newly added relief.

Writ petition lacks merit and as such, is dismissed *in limine.* All the pending applications stands rejected.

(M.M. Ghildiyal, J)

May 29, 2007
SKSHARMA